

CHAPTER 24-B
LINE OF DUTY INVESTIGATIONS
AND DETERMINATIONS

Outline of Instruction

I. REFERENCES.

- A. 10 USC §§ 972, 1201-1207 and 1219.
- B. 38 USC §§ 101 and 105.
- C. AR 600-8-1, Army Casualty and Memorial Affairs, Chapters 37-41 (18 Sept 1986).
- D. ACIL-ST-231, Reports of Survey and Line of Duty Determinations.

II. INTRODUCTION/PURPOSE.

III. LINE OF DUTY DETERMINATIONS.

- A. In Line of Duty (ILD)
- B. Not in Line of Duty-Not Due to Own Misconduct (NLD-NDOM)
- C. Not in Line of Duty-Due to Own Misconduct (NLD-DOM)
- D. Two question process
 - 1. Status: where the soldier is supposed to be or authorized to be
 - 2. Conduct: soldier's misconduct the cause of the injury, disease

IV. IMPACT OF DETERMINATIONS.

- A. In Line of Duty (ILD)-Soldier may be entitled to:
 - 1. Army Disability Retirement or Separation Compensation

2. VA Compensation and Hospitalization Benefits
3. Incapacitation Pay (ARNG/USAR)
- B. Not in Line of Duty - Not Due to Own Misconduct (NLD-NDOM) and Due to Own Misconduct (NLD-DOM):
 1. If on active duty, denies disability retirement or separation compensation
 2. If disabled after leaving AD, may deny VA disability or hospitalization benefits
 3. May deny civil service preference
 4. ARNG/USAR may be denied incapacitation pay
- C. Not in Line of Duty-Due to Own Misconduct (NLD-DOM):
 1. Days lost > 1 added to service obligation
 2. Days lost > 1 may be excluded from computations for pay and allowances
 3. May result in loss of pay where disease (not injury) immediately follows intemperate use of drugs (includes alcohol)

V. PROCEDURES.

- A. The process begins with an ILD presumption
 1. UNLESS substantial evidence shows otherwise
 2. Burden is “evidence that is of greater weight than supports any different conclusion”
 3. Always look for specific rules of Appendix F too
- B. Informal Investigation by the Unit Commander when:
 1. No misconduct is suspected
 2. No negligence is suspected
 3. Formal investigation is not required
 4. Informal investigation can **only** result in a ILD determination

- C. Formal Investigation by an Appointed Investigating Officer (IO) [AR 15-6] when:
 - 1. Unusual or doubtful circumstances exist
 - 2. Case complexity warrants
 - 3. Injury or disease apparently due to misconduct or willful negligence
 - 4. Self-Inflicted Injuries or Suicide
 - 5. AWOL Status
 - 6. USAR/ARNG Travel To or From Duty
 - 7. Death cases: Do investigation but make no LOD determination

VI. DUE PROCESS.

- A. No requirement to make a statement against interest
- B. Unwarned or involuntary statement invalid for making the LOD determination (10 USC § 1219)
- C. If IO anticipates adverse finding, soldier gets notice and opportunity to respond in writing
- D. If Approval Authority makes adverse decision, soldier gets notice of the determination
- E. Appellate Rights

VII. JUDGE ADVOCATE CONSIDERATIONS.

- A. Advising the IO
- B. Understanding the Burdens
 - 1. “Greater weight than supports any different conclusion”
 - 2. Balancing the ILD presumption with specific rules
- C. Legal Review on Behalf of the Command
 - 1. Have requirements been complied with?
 - 2. Is there error?

3. Are findings supported by substantial evidence?
4. Are potential claims involved?

D. The Legal Assistance Perspective

VIII. CONCLUSION.